

RESIDENTIAL STATUS

Section 6

Residence in India

1. Individuals

[Resident and ordinarily resident / Resident but not ordinarily resident / non-resident]-

The residential status of an individual is determined on the basis of the period of his stay in India.

BASIC CONDITIONS

1. Must be present in India for a period of 182 days or more during the previous year.

2. Must be present in India for a period of 60 days or more during the previous year and 365 days or more during the 4 years immediately preceding the previous year.

However, the second condition is not applicable in the following cases:

(1) An Indian citizen who leaves India during the previous year for the purpose of employment outside India or as a member of the crew of an Indian ship;

(2) An Indian citizen or a person of Indian origin who, being outside India, comes on a visit to India during the previous year

Additional conditions:

1. He is a resident in at least
- 2 out of 10 previous years

preceding the relevant previous year.

(ii) His stay in India in the last 7 years preceding the relevant previous year is 730 days or more.

HUFs [Resident and ordinarily resident / Resident but not ordinarily resident / non-resident]-

1. A HUF would be resident in India if the control and

management of its affairs is situated wholly or partly in India.

2.If the control and management of the affairs is situated wholly outside India, it would become a non-resident. If the HUF is resident, then the status of the Karta would determine whether the HUF is resident and ordinarily resident or resident but not ordinarily resident If the Karta is

resident and ordinarily resident, then the HUF would be resident and ordinarily resident and if the Karta is resident but not ordinarily resident, then the HUF would be a resident but not ordinarily resident.

(iii) Firms & AOPs [Resident / Non-resident]

A firm or AOP would be resident in India if the control and management of its affairs is situated wholly or

partly in India. If the control and management of the affairs is situated wholly outside India, it would become a non-resident.

Companies

[Resident / Non-resident]

A company would be resident in India in any previous year if it is an Indian Company or its place of effective management (POEM) in that year is in India. If the company is not

an Indian Company and its
POEM is also not in India in
that year, it would become a
non-resident for that year.